



STATE OF DELAWARE  
THE COURTS OF THE JUSTICES OF THE PEACE  
820 NORTH FRENCH STREET, 11TH FLOOR  
WILMINGTON, DELAWARE 19801

NORMAN A. BARRON  
CHIEF MAGISTRATE

TELEPHONE: (302) 571-2485

POLICY DIRECTIVE 81-047

TO: ALL JUSTICES OF THE PEACE, STATE OF DELAWARE  
ALL CHIEF CLERKS, COURTS OF THE JUSTICES OF THE PEACE

FROM: NORMAN A. BARRON  
CHIEF MAGISTRATE

DATE: AUGUST 26, 1981

RE: COMMITMENT PAPERS

When bail is set and the defendant is unable to post the bail, he is committed to the custody of the Department of Correction. As stated in 11 Del.C., §2109:

"If the accused does not provide the personal recognizance, secured or unsecured bond or if he does not agree to meet the conditions for release, he shall be held in the custody of the State Board of Correction [now the Department of Correction] until he cures such failure or until the court otherwise orders."

The commitment is accomplished by means of a Commitment Order. No special form is required by either statute or Court Rule. See 11 Del.C., §2111 and Rule 46 of the Superior Court Rules of Criminal Procedure. A question has been raised over the necessity of utilizing a separate commitment form for each charge wherein secured bail is set and not posted. I conclude that there is no requirement,

either under Delaware statute or Court Rule, which mandates separate commitment forms for separate charges. Justice of the Peace Courts are awash in a sea of paper. Any effort to minimize the flow of paper is to be encouraged.

Pursuant to the above, I request that, when possible,<sup>1</sup> only one commitment form be utilized with regard to a defendant, irrespective of the number of charges under which the defendant is being committed in lieu of bail. At the same time, to promote uniformity and to enhance an understanding of the commitment order, I request that the form list the offenses for which secured bail has been set, the amount of secured bail connected with each charge and the total amount of secured bail fixed.

By way of example, suppose John Doe is charged with the crimes of Burglary 1st degree, Assault 2nd degree and Conspiracy 2nd degree. Taking into consideration those factors listed in 11 Del.C., §2105(b), you, as the Judge presiding over the defendant's initial appearance, determine that secured bail is appropriate. You set bail as follows:

Burglary 1st degree:	\$10,000 secured;
Assault 2nd degree:	\$ 5,000 secured;
Conspiracy 2nd degree:	\$ 1,000 secured.

---

<sup>1</sup>There may be occasions when the charges are so numerous that additional commitment forms will have to be utilized.

John Doe is unable to post any bail. Thus, he is committed in default thereof. The commitment order should not only state the total of \$16,000 secured bail, but should also list the offenses and the amounts of bail associated with each offense as indicated above.<sup>2</sup>

I recognize that the commitment forms which are presently in use<sup>3</sup> do not leave extensive room for the listing of numerous charges and their associated bail amounts. Nevertheless, until new simplified forms have been printed and distributed, I request that the present forms be utilized to the extent possible in effectuating the policy expressed herein.

---

<sup>2</sup>Variations to this policy are permissible. For example, commitment papers for a defendant committed in lieu of \$20,000 secured bail for twenty charges of Issuing a bad check (\$1,000 secured per charge) could indicate a total of \$20,000 secured with a footnote that "Bail is set at \$1,000 secured for each of twenty (20) bad check charges."

<sup>3</sup>Criminal Form No. 6 (Commitment).

NAB:pn

cc: The Honorable Daniel L. Herrmann  
John R. Fisher  
Arthur R. Carello  
Thomas W. Nagle  
Mary E. Cooper  
Files